

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
(WESTERN DIVISION – COLUMBUS)**

Veronica J. Geczi,

Plaintiff,

V.

Walmart, Inc.¹,

Defendant.

Case No. 2:21-cv-02594

Judge

NOTICE OF REMOVAL

Walmart, Inc. (hereinafter “Walmart”), by counsel and pursuant 28 U.S.C. §1332, §1441 and §1446, hereby gives notice of the removal of the above-styled action to this Court. In support of its Notice of Removal, Walmart states as follows:

1. Plaintiff Veronica J. Geczi (“Plaintiff”) filed this action on April 14, 2021, in the Court of Common Pleas for Franklin County, Ohio as *Veronica J. Geczi v. Walmart, Inc.*, Case No. 21-CV-002353 (the “State Court Action”).

2. A true and accurate copy of all process, pleadings, and orders served, filed or entered in the state court action as of the date of the filing of this removal is attached hereto as **Exhibit A.**

3. While Walmart contends that the allegations in Plaintiff's Complaint are without merit, Plaintiff's Complaint seeks damages for disability discrimination and violations of the

¹ Defendant has been incorrectly named as Walmart, Inc. The proper party name is Wal-Mart Stores East, LP.

Family and Medical Leave Act (“FMLA”). (*See* Ex. A, Complaint ¶¶ 19-32). Plaintiff demanded a jury trial. (*Id.* at 5).

4. On April 22, 2021, Walmart was served the Summons and Complaint in this matter.

5. Walmart has not filed an Answer or otherwise responded to the Complaint. This Notice of Removal is filed within thirty (30) days of Walmart’s notice of the lawsuit, and is timely filed under 28 U.S.C. § 1446(b).

6. In accordance with 28 U.S.C. § 1446(a), venue is properly placed in the United States District Court for the Southern District of Ohio because it is the district court for the district and division within which the State Court Action is pending (Court of Common Pleas of Franklin County, Ohio).

FEDERAL QUESTION AND SUPPLEMENTAL JURISDICTION

7. Pursuant to 28 U.S.C. § 1441(a), removal of this action is proper because this Court has original jurisdiction on the basis of federal question under 28 U.S.C. § 1331 and supplemental jurisdiction over the remaining state law claim under 28 U.S.C. § 1367.

8. Removal of this action is proper under 28 U.S.C. § 1331 federal question jurisdiction because it is brought under the laws of the United States. Specifically, Count II of Plaintiff’s Complaint is brought under the FMLA, codified at 29 U.S.C. §§ 2615(a) and 2617. (*See* Ex. A, Complaint ¶¶ 27-32).

9. This Court has supplemental jurisdiction over Plaintiff’s state law claim pursuant to 28 U.S.C. § 1367 because the state law claim arises out of a common nucleus of fact and forms part of the same case or controversy as Plaintiff’s FMLA retaliation claim. Specifically, Count I of Plaintiff’s Complaint alleges disability discrimination under Ohio R.C. § 4112, which allegedly catalyzed Plaintiff’s FMLA leave and retaliation claim. (*See Id.* ¶¶ 8-11, 17).

10. Based on the foregoing, removal is proper under 28 U.S.C. §§ 1331, 1367 and 1441(a).

DIVERSITY JURISDICTION

11. This above-described action is also one that may be removed by Walmart pursuant to the provisions of 28 USC §1441 on the basis of diversity jurisdiction. This Court has original subject matter jurisdiction over this action under 28 U.S.C. § 1332, diversity of citizenship, as this is a case that involves citizens of different states and exceeds the sum of value of \$75,000.00, provided Plaintiff has stated a claim and further that Plaintiff has not caused any procedural defects to have been made.

A. Complete Diversity of Citizenship

12. Upon information and belief, Plaintiff is, and was at the institution of this civil action, a citizen of the state of Ohio. (Ex. A, Complaint ¶ 1).

13. Walmart is not a citizen of the state of Ohio. In accordance with 28 U.S.C. § 1332(c)(1), Walmart is now, and was at the time of the commencement of this action, a citizen of Delaware, where it is incorporated, and Arkansas, its principal place of business. Accordingly, Walmart is not now, and was not at the time the Complaint was filed, a citizen of the state of Ohio.²

14. Therefore, Plaintiff and Walmart are citizens of different states under 28 U.S.C. § 1332.

² Wal-Mart Stores East, LP is also not a citizen of Ohio. Walmart Stores East, LP is a citizen of Delaware and Arkansas.

B. Amount in Controversy

15. Plaintiff's Complaint does not state an amount in controversy. However, the Court may look to this Notice of Removal to determine whether the amount in controversy exceeds \$75,000.00. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 551, 553 (2014) (stating that the amount in controversy must be plausibly alleged through a "short and plain" statement and "when a defendant seeks federal-court adjudication, the defendant's amount-in-controversy allegation should be accepted when not contested by the plaintiff or questioned by the court.").

16. Plaintiff's Complaint states that she is seeking reinstatement, back pay, lost benefits, and consequential damages in an amount *in excess of* \$25,000.00. (*See* Ex. A, Complaint at 5 (Demand for Relief)). Based upon a fair reading of Plaintiff's Complaint, these damages, more likely than not, exceed \$75,000.00, if proven at trial.

17. Given the facts and circumstances set forth above, this constitutes an action which originally could have been brought before this Court pursuant to 28 U.S.C. § 1332, and which may be removed by Walmart herein pursuant to 28 U.S.C. § 1441(a).

18. In accordance with 28 U.S.C. § 1446(d), Walmart will promptly provide written notice of the filing of this Notice to Plaintiff.

19. Pursuant to 28 U.S.C. § 1446(d), Walmart will file a duplicate copy of this Notice with the Clerk of the Court of Common Pleas for Franklin County, Ohio.

20. By virtue of this Petition for Removal, Walmart does not waive its rights to answer the Complaint, to assert any claims or defenses, or to make other motions related to Plaintiff's claims.

WHEREFORE, Walmart removes this action to the United States District Court for the Southern District of Ohio, and requests that the Court of Common Pleas for Franklin County, Ohio proceed no further with respect to matters at issue in this action.

Dated: May 19, 2021

/s/ Allie A. Maples

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CERTIFICATE OF SERVICE

I certify that a correct copy of this Notice of Removal was served by CM/ECF on this 19th day of May, 2021 on all counsel or parties of record:

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Counsel for Plaintiff

/s/ Allie A. Maples

Counsel for Defendant